

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: Stryker Rejuvenate and ABG II Hip
Implant Products Liability Litigation

MDL No. 13-2441 (DWF/FLN)

This Document Relates to:

ROBERT C. MONK

Plaintiff,

vs.

HOWMEDICA OSTEONICS d/b/a STRYKER
ORTHOPAEDICS, STRYKER CORP.,
STRYKER SALES CORPORATION and
STRYKER IRELAND LIMITED,

Defendants.

**SHORT FORM COMPLAINT AND
JURY TRIAL DEMAND**

1. Plaintiff, Robert C. Monk, states and brings this civil action in MDL No. 2441, entitled *In Re: Stryker Rejuvenate and ABG II Hip Implant Products Liability Litigation*. Plaintiff are filing this Short Form Complaint as permitted by Pretrial Order #10 dated January 23, 2014 of this Court.

PARTIES, JURISDICTION AND VENUE

2. Plaintiff, Robert C. Monk, is a resident and citizen of the State of Georgia and claims damages as set forth below.

3. Venue of this case is appropriate in the United States District Court, Middle District of Georgia. Plaintiff states that but for the Order permitting directly filing into the District of Minnesota pursuant to Pretrial Order No. 4, Plaintiff would have filed in the United

States District Court, Middle District of Georgia. Therefore, Plaintiff respectfully requests that at the time of transfer of this action back to the trial court for further proceedings that this case be transferred to the above referenced District Court.

4. Plaintiff brings this action *[check the applicable designation]*:

 X On behalf of himself;

 In a representative capacity as the of the having been duly appointed as the by the Court of . A copy of the Letters of Administration for a wrongful death claim is annexed hereto if such letters are required for the commencement of such a claim by the Probate, Surrogate or other appropriate court of the jurisdiction of the decedent. *[Cross out if not applicable.]*

FACTUAL ALLEGATIONS

Allegations as to Right-Side Implant/Explant Surgery:

5. Plaintiff was implanted with a Stryker Modular hip stem on his right hip on or about October, 2009, at Jack Hughston Hospital, 4401 Riverchase Drive, Phenix City, AL 36867 by Dr. John Waldrop.

6. Plaintiff had the right hip stem at issue explanted on April 9, 2014, at Jack Hughston Hospital, 4401 Riverchase Drive, Phenix City, AL 36867 by Dr. John Waldrop.

ALLEGATIONS AS TO INJURIES

7. (a) Plaintiff claims damages as a result of (check all that are applicable):

 X INJURY TO HIMSELF

 INJURY TO THE PERSON REPRESENTED

 WRONGFUL DEATH

SURVIVORSHIP ACTION

ECONOMIC LOSS

8. Plaintiff has suffered injuries as a result of implantation of the Devices at issue manufactured by the Defendants as shall be fully set forth in Plaintiff's anticipated Amended Complaint, as well as in Plaintiff's Fact Sheet and other responsive documents provided to the Defendant and are incorporated by reference herein.

9. Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff.

10. Plaintiff could not have known that the injuries she suffered were as a result of a defect in the Devices at issue until after the date the Device was recalled from the market and the Plaintiff came to learn of the recall.

11. In addition, Plaintiff could not have known that he was injured by excessive levels of chromium and cobalt until after the date he had his blood drawn and he was advised of the results of said blood-work and the fact that those blood work abnormalities were attributable to a defect in the Device at issue.

CASE-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY

12. The following claims and allegations are asserted by Plaintiff and are herein adopted by reference (check all that are applicable):

- | | |
|--------------|--|
| <u> X </u> | COUNT I - NEGLIGENCE; |
| <u> X </u> | COUNT II - NEGLIGENCE PER SE; |
| <u> X </u> | COUNT III - STRICT PRODUCTS LIABILITY - DEFECTIVE DESIGN; |
| <u> X </u> | COUNT IV - STRICT PRODUCTS LIABILITY – MANUFACTURING DEFECT; |
| <u> X </u> | COUNT V - STRICT PRODUCTS LIABILITY- FAILURE TO WARN; |

X COUNT VI - BREACH OF EXPRESS WARRANTY;

 X COUNT VII- BREACH OF WARRANTY AS TO
MERCHANTABILITY;

 X COUNT VIII - BREACH OF IMPLIED WARRANTIES;

 X COUNT IX - VIOLATION OF MINNESOTA DECEPTIVE ACTS
AND PRACTICES, UNFAIR TRADE PRACTICES,
CONSUMER PROTECTION, MERCHANDISING PRACTICES
AND FALSE ADVERTISING ACTS

 X COUNT X – VIOLATION OF CONSUMER FRAUD AND/OR
UNFAIR AND DECEPTIVE TRADE PRACTICES UNDER
STATE LAW;

 X COUNT XI - NEGLIGENT MISREPRESENTATION

 COUNT XII - LOSS OF CONSORTIUM

 X COUNT XIII – UNJUST ENRICHMENT

 COUNT XIV – WRONGFUL DEATH

In addition to the above, Plaintiff asserts the following additional causes of action under applicable state law:

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. For compensatory damages requested and according to proof;
2. For all applicable statutory damages of the state whose laws will govern this action;
3. For an award of attorneys' fees and costs;
4. For prejudgment interest and costs of suit;
5. For restitution and disgorgement of profits; and,
6. For such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all claims in this action.

Date: 4/30/15

Respectfully submitted,


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